

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Telangana State – Adilabad District – Issue of Agency Area Local ST Certificates under GO Ms.No.24 of dt.12.6.2018 of TW (LTR.1) Department – Cancellation of certificate by the Collector & District Magistrate, Adilabad District vide Procs.Rc.No.C3/2596/2019-17, dt.31.01.2020- Appeal filed by Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal of Adilabad District – Appeal allowed – Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 31

Dated: 27-11-2020
Read the following:-

1. GO Ms.No.24, TW (LTR.1) Department, dated 12.6.2018.
2. Procs.Rc.No.C3/2596/2019-17, dt.31.01.2020 of the Collector & District Magistrate, Adilabad District.
3. Appeal petition filed by Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal of Adilabad District, dated 20.02.2020.
4. Govt.Memo.No.305/TW.LTR/2020, dated 06.06.2020
5. Lr.Rc.No.D5/309/2018, dated:30.07.2020 of the PO, ITDA, Utnoor, Adilabad District.
6. Notice No.305/TW.LTR/2020, dt. 28.08.2020.

ORDER

In the reference 1st read above, Government have issued detailed guidelines for issue of Agency Area Local Scheduled Tribe Certificates to the local STs living in the Scheduled Areas and procedure to be adopted for cancellation of such certificates in case of fake/bogus claims.

2. In pursuance of the said Government orders under reference 1st read above, the Collector & District Magistrate, Adilabad District vide her orders in the reference 2nd cited, has cancelled Agency Area Local ST Certificate bearing No. E/974-2/2014, dated 13.10.2014 issued by the Tahsildar Utnoor Mandal of Adilabad District Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal of Adilabad District, basing on the following findings of the Scrutiny Committee.

- Applicant has produced unregistered "Karz Rokha Patr" executed on 01.02.1949 and documents of unregistered "Servant Deed" (Nowkar Nama Patr) executed on 13.02.1957 showing that their family has been residing in Ginnersa village since 1950 (This is the only document submitted). Both the documents are unattested and authenticity is highly questionable as they are not registered or part of any government records.
- She failed to submit any other substantial documentary evidence to support her claim that her family members resided in Ginnersa village in 1950 before migrating to Utnoor.
- It clearly shows that the family members of the applicant have not been residing in the Agency Scheduled Areas since 1950.
- A show cause notice was issued to Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal to attend before the District Collector, Adilabad on 30.01.2020 to prove her claim as Local ST with relevant material/documents.

(Contd..2)

- Accordingly, Pawar Saritha D/o Seethamram has attended before the Dist. Collector, Adilabad on 30.01.2020 and submitted reply. The only 1950 record produced in loan document supposedly executed by Megya, the father, is unverifiable and difficult to establish and thus she failed to prove that fore-fathers / family members of the claimant are residing continuously in the Agency Area since 1950 or before.

3. Aggrieved by the above cancellation orders of the Collector & District Magistrate, Adilabad District, the Appellant Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal of Adilabad District vide ref. 3rd read above, has filed an Appeal before the Government under GO Ms.No.24, dt.12.6.2018, praying to set aside orders of the District Collector, Adilabad and allow the Appeal Petition. The contentions of Pawar Saritha D/o Seetharam and the documents submitted along with the Appeal are as follows:

- She has been provisionally selected as TRT under Agency STS category of Adilabad District after due verification/scrutiny relating to genuineness of her Local ST certificate issued by the Tahsildar, Utnoor, for issuing appointment orders in terms of directions issued by the Hon'ble High Court of Hyderabad vide WP No.31426/2018 dated 5.9.2018 and also in WP No.32413/2018 dated 14.09.2018.
- The impugned order of cancellation of the Local ST certificate issued by the Tahsildar, Utnoor by the learned District Collector, Adilabad vide order dated 31.1.2020 is improper, illegal, contrary to standing directions of GO Ms.No.24, dt.12.06.2018, more particularly it is jeopardy, harassive, therefore, liable to be set aside.
- It is obligatory on the part of the District Collector, Adilabad to have given her an opportunity of hearing before agreeing to the findings of Scrutiny Committee recording its conclusions, but no such opportunity nor any show cause notice was issued – therefore, cancellation orders of Dist. Collector, Adilabad, is against principles of natural justice, equity and fair play and therefore, liable to be set aside.
- The report of Inquiry officer containing its findings will have to be conveyed and the petitioner/appellant will have an opportunity to persuade the governing authorities to accept a favourable conclusion of the Inquiry Officer/scrutiny committee.
- The principles of natural justice, equity and fair play as we have already observed, require the authority to give an opportunity to the petitioner to file representation before the authorities, record its findings on the issue before final findings are recorded and conclusions passed. This is required to be done as a part of first stage of inquiry as explained in KARUNAKAR'S case reported in 1994 AIR SC page 1974.
- The Scrutiny Committee has found no incriminating material and in the absence of any preliminary or discrete enquiry being proved, cancellation of Agency Area Local ST certificate is erroneous and unsustainable
- The Scrutiny Committee and also District Collector, Adilabad has verified without considering its gravity of incriminating documents i.e.
 - Family Tree Certificate dt.14.11.2019 issued by Tahsildar, Utnoor, after due consideration with Handloan deed dated 01.02.1949.

(Contd..3)

- Document of Servant Deed (Nawkarnama Patr) dated 13.02.1957.
- Residential Certificate dated 20.07.1981.
- Voter list for the year 1977.
- Bonafide and Conduct Certificate of her father Pawar Seetharam S/o Megya issued by ZPSS Thosham mentioning study of VII to VIII during 23.08.1976 to 18.06.1977.
- Resident certificate showing residence at village and town of Utnoor since past 31 years.
- Bonafide certificate for V class during the year 1971 issued by Govt.TW PS Bhikkuthanda/Ginnera of Indervelly Mandal.
- Certificate of proof of local ST certificate issued by Tahsildar, Utnoor on 19.05.2012 showing resident of Ginnera from 1971 to 1990 and presently at Utnoor from 1991.
- Another certificate of proof of local ST certificate issued by Tahsildar No.E/974-2/2014, dated 13.10.2014 showing that the petitioner/appellant and her forefathers/great grandfathers are continuously residing in the agency area which falls within the definition of Scheduled area, w.e.f. 26.1.1950.
- Voter list for the year 1983 and Family Tree Certificate issued by the Tahsildar, Utnoor clearly disclosed that her forefathers, great grandfathers are continuously residing prior to 26.1.1950.
- Therefore, the question of tendering negative findings in recommendations for cancellation of Agency Area local ST certificate issued by the Tahsildar, Utnoor without any enquiry and its findings, and thereby cancelled by the Dist. Collector, Adilabad suo-moto without mentioning any tentative reasons therein, is liable to be set aside.

Documents submitted along with the Appeal:

- Copy of Family Tree (father side) duly Notarized by Ghanshyam Lal Gupta, Advocate & Notary, Utnoor – according to which – Pawar Baba S/o Khima is great grandfather of appellant. Pawar Baba has five sons viz., 1) Pawar Megya (grandfather of appellant), 2) Pawar Govind, 3) Pawar Ganya, 4) Pawar Ram and 5) Pawar Laxman. Pawar Megya (grandfather of appellant) has one son and one daughter viz., 1) Pawar Seetharam (father of appellant) and 2) Pawar Girija Bai. Pawar Seetharam (father of appellant) has two sons and one daughter viz., 1) Pawar Arun Kumar (son), 2) Pawar Saritha (daughter and appellant herein) and 3) Pawar Anil Kumar.
- Copy of affidavit duly notarized submitted before the District Collector, Adilabad – wherein the appellant stated on oath that:
 - o She filed documents like Migration Certificate of 26.1.1950 and resolution of village elders of Ginnera and Naukar Nama Patra and Karz Rokha as they have migrated from Ginnera village, Indervelly Mandal to Utnoor on account of job of her father.
 - o She filed servant deed dated 13.02.1957 (Naukarnama) Patra and Karz Rokha Patra for the year 01.02.1949 as evidence to show that they were living at Ginnera village from 1949 onwards, and that their family did not purchase land for cultivation but her grandfather Sri Pawar Megya was farm servant in the land of Sri Jadhav Kevlya S/o Chitru R/o Ginnera village at the wages of Rs.430/- per year with 20 box Jawar and they executed a Naukar Nama and Karz Rokha Patra affixing a Revenue Ticket in the year 1950 of 10 paisa.

- In the year 1950, it was very difficult to achieve Bond paper from Stamp vendor since they were illiterate and believing in Revenue ticket treating the Revenue ticket as Bond paper, but it is genuine and may be believed.
- Therefore, the Karz Rokha and Servant Deed relating to her grandfather is correct and trustworthy and hence may be taken into consideration.
- Copy of reply dt.30.01.2020 submitted to the Notice of District Collector, Adilabad – wherein she stated that her grandfather Pawar Megya S/o Baba was working under Jadhav Kevelya _ S/o Chatru in Ginnersa village of Indravelly Mandal since 1949 for agri work @ Rs.450/- per year and being illiterate he could not stamp paper but got the same thing written on a white paper affixing 10 paise revenue stamp from village patwari. Her father Pawar Seetaram was born on 2.8.1962 in Ginnersa village, her grandfather Megya died in 1975. After his death, her grandmother Suvalibai was working as a servant in the house of Rathod Hemla Naik and got educated her father, who secured employment in 1984 and shifted to Utnoor on account of job.
- Copy of Handloan Deed dt.1.2.1949 (translated from Marathi to English by Mohd.Ayub Khan, Translator) executed by Pawar Megya S/o Baba (i.e. grandfather of appellant) R/o Ginnersa village stating that he had taken hand loan of Rs.130/- (Rupees One hundred and thirty only) from Shri Jadhav Kevalya S/o Chatru R/o Ginnersa on 1.2.1949, failing to repay, he shall work as servant under him for repayment of hand loan.
- Copy of Servant Deed dt. 13.2.1957 (Nawkarnama Patr) (translated from Marathi to English by Mohd.Ayub Khan) – scribed on seventy five paise copy stamp in Marathi language. This was executed by Pawar Megya S/o Baba R/o Ginnersa (grandfather of appellant), wherein he stated that he had taken loan of Rs.130/- from Jadhav Kevalya for meeting marriage expenses of his younger brother Govind, of which certain amount was paid by him and failing to repay the balance amount, he will work as servant job under him. The said fact was also stated in the hand loan deed executed on 1.2.1949 and today i.e. 13.2.1957 he executed this in the presence of witnesses and his wife Smt.Swali Bai (grandmother of appellant) etc..
- Copy of Bonafide Certificate issued by Head Master, Govt.TWPS Bhikkuthanda, Ginnersa, Mdl: Indravelly, Dist. Adilabad to Sri Pawar Seetharam S/o Megya for studying from Nursery (1966 year) to Class V (year 1971). His date of birth is 02.08.1962 as per school admission register.
- Copy of Residential Certificate dt.20.7.1981 issued by Tahsildar, Utnoor – wherein it was certified that Sri Pawar Seetaram S/o Megya was a resident of Ginnersa village of Utnoor Taluq, Adilabad Dist.
- Copy of Caste Certificate dt.19.11.1983 issued by Tahsildar, Utnoor – wherein it was certified that Sri Seetaram S/o Megya R/o Ginnersa belongs to Lambadi ST Community.

- Copy of certificate issued by MRO Indervelly in Rc.No.C/967/2001, dt. 7.6.2001 – wherein it was certified that Sri P.Seetaram S/o Megya R/o Bikkuthanda H/o Ginnersa village of Indervelly Mandal – his mother name is enrolled in Electoral Roll for 1977 Part 157 Ginnersa Sl.No.362 Smt.Savali Bai W/o Megya.
- Copy of Voter list for the year 1983 – Polling Station No.12 – Polling Station: Mutnoor, Polling Area: Mutnoor Ginnersa, Firka: Indervelly, Utnoor Taluq – Sl.No.525 and 526 show names of Suvalyabai W/o Megya and Seetaram S/o Megya.
- Copy of Residence Certificate dt.31.5.2005 issued by Executive Officer, GP Utnoor, wherein it was certified that Sri Pawar Saritha D/o P.Seetaram is a resident of Utnoor village of Utnoor Mandal by birth.
- Certificate of proof of local ST community bearing No.E/974/2012, dt.19.05.2012 issued by Tahsildar, Utnoor, wherein it was certified that Sri Pawar Seetaram S/o Megya aged about 50 years, his date of birth is 02.08.1962 belongs to Lambada ST community is presently residing at Utnoor village of Utnoor Mandal. His parents were previously resided (from 1971 to 1990) at Ginnersa village of Indervelly Mandal and from 1991 to till date residing at Utnoor village, which fall within the Scheduled Area, w.e.f. 26.1.1950.
- Certificate of proof of local ST community bearing No.E/974-2/2014, dt.13.10.2014 issued by Tahsildar, Utnoor Mandal, wherein it was certified that Pawar Saritha D/o Seetaram aged about 31 years, date of birth is 18.01.1987 belongs to ST Lambada community, presently residing at Utnoor village and Mandal. His parents were previously resided from 1971 to 1990 at Ginnersa village of Indervelly Mandal and from 1991 to till date at Utnoor village & Mandal.
- Copy of Certificate bearing C.No.3026/2014, dt.19.11.2014 issued by Tahsildar, Indervelly – wherein it was certified that Sri Pawar Megya S/o Baba aged 85 years belonging to ST community was residing in Ginnersa village of Indervelly Mandal within the scheduled area since 1950 to 1985.
- Copy of Community and Date of Birth Certificate dt.03.09.2016 issued by Tahsildar, Utnoor to Saritha Pawar D/o Seetaram Pawar R/o Utnoor village and Mandal.
- Copy of Residence Certificate dt.09.08.2018 issued by Tahsildar, Utnoor to Kumari Pawar Saritha D/o Pawar Seetharam of Utnoor village – residing at Door No.9-101 in Pakeergutta of Utnoor Village & Mandal.
 - Copy of Certificate dt.09.11.2018 in Rc.No.C/744/2018 issued by Tahsildar, Utnoor Mandal, wherein it was certified that Kumari Pawar Saritha D/o Seetharam R/o Utnoor village of Utnoor Mandal is residing in Utnoor village, which is notified scheduled area village in Telangana State.
 - Copy of Bonafide and Conduct Certificate dt.22.10.2019 issued by Head Master Gr.II Gazetted, ZPSS Thosham, Mdl: Gudihathnoor – wherein it was certified that Sri P.Seetharam S/o Megya was a bonafide student of the school studied VII class from 23.08.1976 to 18.06.1977.

- Copy of declaration given by elders of Ginnersa village, Indravelli Mandal – wherein they stated that Sri Pawar Megya S/o Baba lived in the village from before 1950 doing daily labour and servant. He has two children i.e. 1) Pawar Seetaram (son) and 2) Pawar Girijabai (daughter) – his wife is Pawar Suvalibai. Pawar Megya died in 1975 and after his death, his wife Smt.Suvalibai was doing labour and was eking out livelihood. Pawar Megya had no assets in the village or any agriculture land and was depending on cattle grazing. Later Pawar Seetaram S/o Megya shifted to Utnoor village in 1985 on account of job.

4. Vide reference 4th read above, the District Collector, Adilabad has been requested to submit connected documents pertaining to the case along with para-wise remarks.

5. Accordingly, vide reference 5th read above, the PO, ITDA, Utnoor, Adilabad District has submitted connected documents of the case along with para-wise remarks.

6. Vide reference 6th read above, a Notice has been to the Appellant to attend for hearing on 05.09.2020 at 11.00 AM before the Government to prove her claim along with documentary evidences. Accordingly, the Appellant has attended for hearing on 05.09.2020 and submitted the following documents:

- Resolution passed by PESA Gram Sabha (Ginnersa village) on 4.8.2020 – signed by Rathod Pavan (President), Rathod Krishna (Secretary) and Vijaya, Sarpanch of GP Ginnersa (Bhikkuthanda) Indervelly Mandal and also signed by Rameshwar, R.Bheemrao and Suresh – wherein it was stated that Sri Pawar Megya S/o Baba lived in their village i.e. Ginnersa Bhikkuthanda from 1943. All his children, himself and his wife Suvalibai were born in the same village. Pawar Megya was married in the year 1944 and he has two children viz., 1) Pawar Seetaram (son) and 2) Pawar Girijabai – Pawar Megya died in the year 1975. After his death, his wife Suvalibai doing labour work got her children educated. Entire family in the village were lived before 1950 in Ginnersa Village. They have no land except a house which was sold away and shifted to Utnoor in the year 1975 on account of job.
- Declaration by village elders of GP Ginnersa (Bhikkuthanda) Mandal: Indervelly dt.04.08.2020 – wherein they stated that Pawar Megya S/o Baba lived in their village from 1943. Baba has four children and eldest son is Pawar Megya who has two children viz., 1) Pawar Seetaram and 2) Pawar_Girijabai. Pawar Seetaram has four children 1) Pawar Arunkumar 2) pawar Anilkumar 3) Pawar Saritha. Their grandfather had no land in the village and was doing daily labour work/servant in the village. Baba and his third son died in the same village and in the year 1969 twin-sons drowned in water and died. Thus, only Pawar Megya remained in the village and he too died in the year 1975. Later his wife Suvalibai doing cooli work, maintained family and got her son educated. In the year 1985,on account of job purpose, he migrated to Utnoor and settled there. The entire family born and lived in Ginnersa (Bhikkuthanda) village – hence certified.

7. The Government have verified the record sent by the PO, ITDA, Utnoor, Adilabad District.

8. The District Collector, Adilabad has cancelled the Agency Area Local ST Certificate of the appellant Kumari Pawar Saritha D/o Seetaram R/o Utnoor mainly on the following grounds that – she has produced unregistered Karz Rokha Patr dt.01.02.1949, Servant Deed dt.13.2.1957 which are unregistered and authenticity is questionable as they are not part of any government record and failed to establish her claim that her family members resided in Ginnersa village in 1950 before migrating to Utnoor village.

- The official records i.e.
 - Bonafide Certificate issued by Govt.TWPS Ginnersa-Bhikkuthanda village of Indervelly Mandal shows that father of appellant studying Nursery to V class from 1966 to 1971.
 - As per certificate of MRO Indervelly dt.7.6.2001 in Rc.No.C/967/2001 and voter list for the year 1977 – the family resided in Ginnersa village.
 - Voter list for the year 1983 shows the family resided in Ginnersa village.
 - As per Certificates of Proof of Local ST issued by Tahsildar, Utnoor dt.19.5.2012 and 13.10.2014 to Sri 1) Pawar Seetaram (father of appellant) and 2) Pawar Saritha D/o Seetaram (appellant), previously resided in Ginnersa village till 1990 and from 1991 onwards to till date in Utnoor village.
 - Certificate in C.No.3026/2014, dt.19.11.2014 issued by Tahsildar, Indervelly states that Sri Pawar Megya S/o Baba belongs to Lambada ST community resided in Ginnersa village from 1950 to 1985.
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 - The PESA Gram Sabha resolution and village elders declaration speak that the family of Baba i.e. father of Pawar Megya (grandfather of appellant) and others were born and resided in Ginnersa village including grandmother of appellant Suvalibai – they do not have any agricultural land but depended on labour work and working as servant. They resided in the village Bhikkuthanda H/o Ginnersa village from before 1950 to 1985 and later Pawar Seetaram along with his mother Suvalibai migrated to Utnoor on account of his job.

9. The above evidences amply prove that the appellant and her forefathers have been living in the scheduled area since 26.1.1950 i.e. Bhikkuthanda H/o Ginnersa of Indervelly (scheduled village) from before 1950 to 1985 and from 1985 to till date in Utnoor village of Utnoor Mandal (scheduled village).

10. Government after careful examination of the documents available on record sent by the the PO, ITDA, Utnoor, Adilabad District, and documents submitted by the Appellant and along with the Appeal Petition, during hearing on 5.09.2020 and also in the light of the interim orders of the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh passed in IA No.1 of 2018 in WP No.31426 of 2018, dated 5.9.2018 and in IA No.1 of 2018 in WP No.32413 of 2018, dated 14.9.2018, it is found that the Appellant Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal of Adilabad District and his forefathers have been continuously residing in the scheduled areas of Adilabad District w.e.f. 26.1.1950 i.e. in Ginnersa village of Indravelly Mandal from before 1950 to 1985 and from 1985 to till date in Utnoor village and Mandal of Adilabad District and the Agency Area ST certificate bearing No.E/974-2/2014, dt.13.10.2014 issued by the Tahsildar, Utnoor after due enquiry, is treated as genuine and valid.

11. Accordingly, Government hereby set aside orders of the Collector & District Magistrate, Adilabad District in Procs.No.C3/2596/2019-17, dt.31.01.2020 and allow the Appeal Petition filed by Pawar Saritha D/o Seetharam R/o Utnoor (vg) of Utnoor Mandal of Adilabad District The authorities competent i.e. Tahsildar, Utnoor shall issue Agency Area Local ST certificate in the format as prescribed in GO Ms.No.24, TW (LTR) Dept. dt.12.6.2018

12. The Collector & District Magistrate, Adilabad District shall take further necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**Dr. CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT**

To
The Collector & District Magistrate, Adilabad District.
Pawar Saritha D/o Seetharam R/o. Utnoor (Village),
Utnoor Mandal, Adilabad District.

Copy to:

1. The Secretary, Telangana State Public Service Commission, Hyderabad (for information & necessary action)
2. The Project Officer, ITDA Utnoor, Adilabad District (for information & necessary action)
3. The District Educational Officer, Adilabad (for information & necessary action)
4. The PS to Hon'ble Minister for ST Welfare for information.
5. The PS to Secretary (TW)
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER